

4. TYPES OF PETITIONS

A representation proceeding is initiated by the filing of a petition. Section 9(c) of the Act provides for three types of petitions: (1) a petition seeking certification, (2) an employer petition seeking resolution of a question concerning representation, and (3) a petition seeking decertification of the presently recognized bargaining agent. Section 9(e) of the Act provides for petitions for balloting with respect to rescission of a union-shop authorization. In addition, the Rules and Regulations, Section 102.60(b), provides for petitions for clarification of the bargaining unit and petitions for amendment of the certification.

The first four types of petitions (RC, RM, RD, and UD) all seek Board-conducted elections. The next three (UD, UC, and AC), are different in nature as, the general description of each below will readily indicate. No attempt will be made here to outline the relevant substantive law which is applicable to given situations in the determination and disposition of cases involving any of the six types of petitions. Issues arising in relation to RC, RM, and RD petitions are treated under the several substantive chapters which pertain to all election petitions, whether they be for certification, decertification, or employer petitions, although issues arising in relation to UD, UC, and AC petitions are treated in a single chapter under separate subheadings.

4-100 Representation Petition Seeking Certification (RC)

316-6700 et seq.

A petition for certification as bargaining agent under Section 9(c)(1)(A)(i) may be filed by an employee or group of employees or any individual or labor organization acting on their behalf, alleging that a substantive number of employees wish to be represented for collective-bargaining purposes and that their employer declined to recognize their representative. Such a petition is usually filed by unions, although in the language of the Act and Board interpretation this need not necessarily be the case, as the statutory provision uses the language “employee or group of employees or any individual or labor organization acting in their behalf.”

4-200 Decertification Petition (RD)

316-6733

Under Section 9(c)(1)(A)(ii), an employee, group of employees, individual, or labor organization may file a decertification petition asserting that the currently certified or recognized bargaining representative no longer represents the employees in the bargaining unit.

The substantive rules governing decertification petitions specifically are treated in the chapter on the “Existence of a Representation Question,” *infra*, at chapter 7.

4-300 Employer Petition (RM)

316-6750

Under Section 9(c)(1)(B), an employer may file a petition for an election, alleging that one or more individuals or labor organizations have presented a claim to be recognized as the bargaining representative of a unit of employees. The petitioning employer is generally required to show that the union has presented an affirmative demand for recognition. If the union is an incumbent, the employer must show that it has a good faith uncertainty as to the unions majority status. See *Levitz Furniture Co.*, 333 NLRB No. 105 (2001)

The substantive rules governing employer petitions specifically are treated in the chapter on the “Existence of a Representation Question,” *infra*, at chapter 7.

4-400 Union-Security Deauthorization Petition (UD)

324-4060-5000

Under Section 9(e), the Board is empowered to take a secret ballot of the employees in a bargaining unit covered by an agreement between their employer and a labor organization, made pursuant to Section 8(a)(3),

on the filing with the Board of a petition by 30 percent or more of the employees in the unit alleging their desire that the authority for such a provision be rescinded. The Board certifies the result of such balloting to the labor organization and to the employer.

See CHM sections 11500–11516 for UD procedures. See also section 5-620, *infra*.

4-500 Petition for Clarification (UC)

355-7700

385-0150

385-7501-2500 et seq.

The Board's express authority under Section 9(c)(1) to issue certifications carries with it the implied authority to police such certifications and to clarify them as a means of effectuating the policies of the Act. Thus, under Section 102.60(b) of the Board's Rules and Regulations, a party may file a petition for clarification of a bargaining unit when there is a certified or currently recognized bargaining representative and no question concerning representation exists. (See also Sec. 101.17 of the Statements of Procedure.)

See *Armco Steel Co.*, 312 NLRB 257 (1993), for a discussion of the use of UC proceedings to clarify unit scope as well as unit placement issues.

For further discussion of Unit Clarification (UC) proceedings see section 11-200.

4-600 Petition for Amendment of Certification (AC)

385-0150

385-2500 et seq.

Flowing from the Board's express authority under Section 9(c)(1) to issue certifications is the implied authority to amend them. Under Section 102.60(b) of the Board's Rules and Regulations, a party may file a petition to amend certification to reflect changed circumstances, such as changes in the name or application of the labor organization or in the site or location of the employer, when there is a unit covered by a certification and no question concerning representation exists. (See also Sec. 101.17 of the Statements of Procedure.)

Note that petition for *amendment* of certification may be filed only for a unit covered by a certification, while a petition for *clarification* of a bargaining unit may be filed either when the bargaining representative has a certification or is recognized by the employer but not pursuant to a certification. *Locomotive Firemen & Enginemen*, 145 NLRB 1521 (1964). The requirements and procedures for UC and AC petitions are set out in the Rules and Regulations, Sections 102.61(d) and 102.61(e), and CHM sections 11490–11498. See also section 11-100, *infra*.

4-700 Expedited Elections-Section 8(b)(7)(C)

See discussion in sections 5-610 and 7-150, *infra*

